



IN THE UNITED STATES PATENT OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of)
Paul Bryan)
Serial No.: 09/871,349) Patent Pending
Filed: May 31, 2001) Examiner: Vishu Mendiratta
For: Game Board and Game Having a Touring) Group Art Unit: 3711
Band Theme)
Attorney's Docket No: 4822-001)
Raleigh, North Carolina
March 24, 2005

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF PAUL BRYAN UNDER RULE 1.132

I, Paul Bryan, reside at 413 East Millbrook, Raleigh, NC 27609 and declare as follows:

1. I am the inventor of U.S. Patent Application Serial No. 09/871,349 entitled "Game Board and Game Having a Touring Band Theme."
2. I have reviewed the pending claims in this application, including claims 1-11 and 13-15. I have further reviewed the office action dated November 24, 2004 and the Elrod patent.
3. The Elrod patent shows a game with a band theme and does include two paths, performing stages including a final stage, concert platform, a pair of dies, a series of band member tokens, a plurality of "challenge" cards, and a plurality of "rescue" cards. In the Elrod game, each player selects a concert platform and advances their concert platform from the starting point to the ending point, the final stage, by rolling the dice and following specific instructions. In Elrod, the band member tokens comprise a number of tokens that represent

generic band members, such as a singer, guitarist, drummer, etc. In Elrod's game the band members are sold for money and in the end the player with the most money wins.

4. The "challenge" cards in Elrod permit players to challenge themselves or their opponents to perform some act or task. The "rescue" cards 126 in Elrod permit players to name alternative musical artists as needed when beginning a turn. "Rescue" cards also allow players to fend off challenges and avoid other troublesome situations.

5. Elrod does not include any band member cards. Neither the "challenge" cards nor "rescue" cards of Elrod can be interpreted to be band member cards. More particularly, neither the "challenge" card nor "rescue" cards of Elrod include a series of groups of cards where each group is alike and each group represents a band and its members.

6. In my invention and as set forth in claim 1, as well as claim 13, there is provided band equipment cards. There are no band equipment cards shown or talked about in the Elrod patent.

7. In my invention, the game board is provided with a network of paths that include an outer path and at least one intermediate path that extends around a portion of the game board and which is disposed interiorly or inwardly of the outer path. Further the game board includes a generally curved path that extends in a curved fashion around at least a portion of the performing stage and a series of feeder paths that extend from the intermediate path to the generally curved shaped path that extends around a portion of the performing stage. In the specification and drawings, the outer path is referred to by the numeral 116 while the intermediate path is referred to by the numeral 118, the curved path being referred to by the numeral 140 and the series of feeder paths being referred to by the numeral 120. These paths are functionally related to the game board as they define the path that the individual player tokens move along during the course of the game. These respective paths have an interplay with the consequence cards and the dies. Together, all of these components interrelate and control the path that a player's token moves on the board during the course of a game. These

paths are also functionally related to the strategy of the game and to the consequences and results that flow from the chance element of the game. By changing the paths one will inherently change the game board and the nature and characteristics of the game. There is a functional relationship between the paths and the game board and even other elements of the game apparatus.

8. To the extend that there is a question about the functional relationship of any printed matter to the band member cards for example, there is a functional relationship here. The deck of band member cards includes a series of separate and distinct sets or groups of cards. There must be some means to distinguish one set from another set. Whether this is accomplished through indicia or physical structure, the result is the same. The indicia or physical structure is functionally related to the card because it identifies and distinguishes one of the plurality of groups of cards from another of the plurality of groups of cards. Further, the indicia or physical structure utilized to distinguish and identify one band group from another band group, and in so doing identifies and distinguishes the band members of one group from the band members of another group. The cards support this distinguishing material or structure.

9. I hereby declare under penalty of perjury that to the best of my knowledge and belief all of the foregoing statements are true.

By: Paul Bryan
Paul Bryan
Date: 3-24-05